



DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 542 and 543

RIN 3141-AA-37

Minimum Internal Control Standards for Class II Gaming

AGENCY: National Indian Gaming Commission.

ACTION: Final rule; delay of effective date; suspension.

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**SUMMARY:** The National Indian Gaming Commission (NIGC) announces the delay of the effective date of a rule published in the Federal Register on October 10, 2008. The Commission also announces the suspension of regulations. These changes are intended to maintain the regulatory status quo while tribes and operations transition to the new Class II Minimum Internal Control Standards that were published on September 21, 2012.

**DATES:** The effective date for amendments to §§ 542.7 and 542.16 in the final rule published October 10, 2008, 73 FR 60492, delayed October 9, 2009, at 74 FR 52138, September 10, 2010, at 75 FR 55269, and August 30, 2011, at 76 FR 53817, is further delayed until April 22, 2014. Section 543.3(c)(3) is suspended until 11:59 p.m. October, 21, 2012. Submit comments on or before October 11, 2012.

**ADDRESSES:** Send comments to Jennifer Ward, National Indian Gaming Commission, 1441 L Street NW, Suite 9100 Washington, D.C. 20005; email: [reg.review@nigc.gov](mailto:reg.review@nigc.gov)

**FOR FURTHER INFORMATION CONTACT:** Jennifer Ward, Attorney, NIGC Office of General Counsel, at (202) 632-7003; fax (202) 632-7066 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** Congress established the National Indian Gaming Commission under the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701-21 (IGRA), to regulate gaming on Indian lands. The NIGC published a final rule on September 21, 2012, that will supersede the existing part 543, Minimum Internal Control Standards Class II Gaming, with comprehensive and updated standards, effective October 22, 2012. The 2012 rule also provides up to 18 months for operations to implement the new standards.

During this transition period, the Commission desires to maintain the existing standards in part 542, as they apply to Class II gaming. Some of these standards, § 542.7 (Bingo) and § 542.16 (Information technology) are scheduled to be removed effective October 12, 2012 in accordance with the final rule, published on October 10, 2008. (73 FR 60492; delayed by 74 FR 52138, 75 FR 55269, and 76 FR 53817). In order to preserve regulation for these areas during the transition period, the Commission delays the effective date for removing §§ 542.7 and 542.16 until April 22, 2014.

Similarly, the 2008 final rule also set forth a requirement at § 543.3(c)(3) that required tribal operators to come into compliance with tribal internal control standards within a certain timeframe. This deadline was also extended numerous times, most recently by 76 FR 53817, to October 12, 2012. (74 FR 52138, 75 FR 55269, and 76 FR 53817). Rather than requiring operations to implement standards for the ten days before the 2012 final rule takes effect, the Commission suspends § 543.3(c)(3) until 11:59 p.m. October 21,

2012, after which time the standard will be overwritten by the final rule published on September 21, 2012 (77 FR 58708).

## **Regulatory Matters**

### ***Regulatory Flexibility Act***

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

### ***Small Business Regulatory Enforcement Fairness Act***

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions, nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

### ***Unfunded Mandate Reform Act***

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

### ***Takings***

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

### ***Civil Justice Reform***

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

### ***National Environmental Policy Act***

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

### ***Paperwork Reduction Act***

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget (OMB) as required by 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 3141– 0012, which expired in August of 2011. The NIGC published a notice to reinstate that control number on April 25, 2012. 77 FR 24731. There is no change to the paperwork created by this revision.

### **List of Subjects in**

#### **25 CFR Part 542**

Accounting, Gambling, Indian – Indian lands, Reporting and recordkeeping requirements.

## **25 CFR Part 543**

Administrative practice and procedure, Gambling, Indian – Indian lands, Reporting and recordkeeping requirements.

For the reasons set forth above, under the authority at 25 U.S.C. 2701, 2702, 2706, et seq., the effective date for the amendments removing and reserving §§ 542.7 and 542.16 in the final rule published October 10, 2008 (73 FR 60492) , delayed October 9, 2009, at 74 FR 52138, September 10, 2010, at 75 FR 55269, and August 30, 2011, at 76 FR 53817, is further delayed from October 12, 2012, until April 22, 2014, and 25 CFR part 543 is amended as follows:

### **PART 543—MINIMUM INTERNAL CONTROL STANDARDS FOR CLASS II GAMING**

1. The authority citation for part 543 continues to read as follows:

**Authority:** 25 U.S.C. 2701 *et seq.*

#### **§ 543.3 [Amended]**

2. Section 543.3(c)(3) is suspended until 11:59 pm, October 21, 2012.

Dated: September 28, 2012.

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Tracie L. Stevens,  
Chairwoman.

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Steffani A. Cochran,  
Vice-Chairwoman.

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Daniel Little,  
Associate Commissioner.  
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